

# **EXHIBIT 66**

**PUBLIC**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

---

UNITED STATES, ) 1:23-cv-00108-LMB-JFA  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
GOOGLE LLC, )  
 )  
Defendants. )  
\_\_\_\_\_ )

VIDEOTAPED 30(b)(6) DEPOSITION OF  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
through the testimony of  
CHRISTOPHER KOEPKE  
August 25, 2023  
9:00 a.m.

Reported by: Bonnie L. Russo  
Job No. CS6075382

Page 2	Page 4
1       Videotaped 30(b)(6) Deposition of 2       Centers for Medicare and Medicaid Services 3       through the testimony of Christopher Koepke 4       held at: 5 6 7 8       Paul Weiss Rifkind Wharton & Garrison, LLP 9       2001 K Street, N.W. 10      Washington, D.C. 11 12 13 14 15 16 17 18      Pursuant to Notice, when were present on behalf 19      of the respective parties: 20 21 22	1       APPEARANCES (CONTINUED): 2 3       Also Present: 4       Orson Braithwaite, Videographer 5       Kenneth Whitley, Department of Health and Human 6       Services, Office of General Counsel 7 8       Also Present Via Remotely: 9       Alvin Chu, DOJ 10      David Grossman, DOJ 11      Jimmy McBirney, DOJ 12 13 14 15 16 17 18 19 20 21 22
Page 3	Page 5
1       APPEARANCES: 2 3       On behalf of the Plaintiffs: 4       MARK H.M. SOSNOWSKY, ESQUIRE 5       VICTOR LIU, ESQUIRE 6       UNITED STATES DEPARTMENT OF JUSTICE 7       450 Fifth Street, N.W. 8       Washington, D.C. 20530 9       mark.sosnowsky@usdoj.gov 10      victor.liu@usdoj.gov 11 12      On behalf of the Defendant: 13       MARTHA L. GOODMAN, ESQUIRE 14       HEATHER MILLIGAN, ESQUIRE 15       AMY MAUSER, ESQUIRE 16       PAUL, WEISS, RIFKIND, WHARTON & 17       GARRISON, LLP 18       2001 K Street, N.W. 19       Washington, D.C. 20006 20       mgoodman@paulweiss.com 21       hmilligan@paulweiss.com 22       amauser@paulweiss.com	1           I N D E X 2           EXAMINATION OF CHRISTOPHER KOEPKE      PAGE 3       BY MS. GOODMAN                                    8 4       BY MS. MILLIGAN                                   74 5 6           EXHIBITS 7       Exhibit 76 E-Mail Chain dated 6-14-22    17 8       Attachment 9       CMS-ADS-0000018746-790 10      Exhibit 77 Acquisition Plan (AP) Template 45 11      CMS-ADS-0000023782-806 12      Exhibit 78 E-Mail Chain dated 7-12-21    68 13      CMS-ADS-0000380931-932 14      Exhibit 79 Client Authorization               70 15      to Buy #1 16      CMS-ADS-0001139301-302 17      Exhibit 80 CMS OE November 2020 Invoice  73 18      Inventory 19      CMS-ADS-0001153897-923 20      Exhibit 81 E-Mail Chain dated 1-28-21    88 21      CMS-ADS-0000373744-745 22      (Exhibits bound separately.)

	Page 78		Page 80
1        Q. Okay. Do you know whether it 2 applies to 2020 open enrollment display, 3 Hispanic?		1 related topic, we bid on that and -- and 2 produced the ads for people who are looking for 3 that. That is how search advertisement works.	
4        MR. SOSNOWSKY: Objection. Form. 5        THE WITNESS: I know it applies to 6 purchases from Google in 2020 --		4        YouTube ads of different lengths are 5 also included here where we will show a video 6 to people in Spanish who are on YouTube.	
7        BY MS. MILLIGAN:		7        We have some on English browsers 8 where people are doing Spanish searches, so we 9 run ads there as well. And then we also had 10 a -- a campaign at the same time on flu, which 11 is on this invoice, and we had YouTube ads in 12 Spanish on the importance of getting a flu shot 13 for people with Medicare.	
8        Q. Okay. 9        A. -- for a Spanish open enrollment. 10      Q. Okay. My question was whether CMS 11 knows if it applies to the 2020 open enrolled 12 display, Hispanic.		14      Then we had discovery ads which are 15 a form of display ads but they are placed 16 within a restricted Google environment such as 17 Gmail.	
13      MR. SOSNOWSKY: Objection. Form. 14      THE WITNESS: And my answer is that 15 it applies to a variety of categories across 16 what is represented here in the invoice and 17 that we -- it is this small purchase of \$220 18 over across \$528,000. We don't know exactly 19 where that came from.		18      And that would be the ads, I think, 19 unless I skipped a line. Did you notice if I 20 skipped a line? I tried to get them all.	
20      BY MS. MILLIGAN:		21      BY MS. MILLIGAN:	
21      Q. Okay. And are the other line items 22 here, aside from the second and the, I guess,		22      Q. No, you didn't.	
	Page 79		Page 81
1        third from the bottom, for other forms of 2 advertising?		1        A. Okay. Thank you. 2        Q. So is it fair to say that you used 3 multiple forms of advertising for the open 4 enrollment Medicare campaign?	
3        MR. SOSNOWSKY: Objection to form. 4        THE WITNESS: I'm sorry. Could you 5 repeat that, please, Heather. I'm not sure I 6 followed.		5        A. It is fair to say that we -- within 6 Google's environment we used multiple forms of 7 advertisements, mostly display, search, videos 8 on YouTube, and of course the -- yeah, that's 9 what I meant. Those three, yep.	
7        BY MS. MILLIGAN:		10      Q. Okay. And why?	
8        Q. Okay. Were the other line items 9 listed here, so 1, 3, 4, 5, 6, 7, and 9 for 10 other forms of advertising?		11      MR. SOSNOWSKY: Objection. Form. 12      THE WITNESS: Well, this could be a 13 long marketing lecture.	
11      MR. SOSNOWSKY: Objection. Form. 12      THE WITNESS: For other forms of 13 advertising that -- for which Google placed 14 them, yes.		14      So each one of these ads in each one 15 of these channels or tactics for delivering an 16 ad actually accomplishes a different goal with 17 the audiences, so search ads are for people who 18 are already interested in the topic so much 19 that they are searching for it.	
15      BY MS. MILLIGAN:		20      And many people buy search ads on 21 Google, so we have to buy search ads on Google 22 in order to make sure that people who want	

<p style="text-align: right;">Page 82</p> <p>1 information from Medicare, see that we have 2 that information versus other private entities, 3 and our -- our information is not biased. So 4 that is only for people -- in marketing we call 5 it the bottom of the funnel. They are about 6 ready to take an action.</p> <p>7 The YouTube ads are videos, which 8 can be engaging for some people, people who are 9 actually on YouTube to see them. Discovery ads 10 are limited to people within a Google 11 environment, such as Gmail, for which there is 12 specific targeting information available from 13 Google to deliver those ads to a much more 14 narrow audience but our return on investment 15 could be a little higher but our reach isn't as 16 good.</p> <p>17 And then, lastly, the display ads 18 can have outstanding reach because what is 19 often referred to as programmatic display goes 20 to many different people because it goes across 21 many different websites. Any website that a 22 member of our audience might be on could see</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Okay. As a representative here on 2 behalf of CMS, do you have an understanding of 3 the suppliers from which CMS purchases 4 advertising?</p> <p>5 MR. SOSNOWSKY: Objection. Form.</p> <p>6 THE WITNESS: Depending on the many 7 campaigns during this time period, we have a 8 lot of different suppliers, and I have an 9 understanding. But for any specific project, I 10 would have to refer to the document --</p> <p>11 BY MS. MILLIGAN:</p> <p>12 Q. Okay.</p> <p>13 A. -- so I could, for instance, refer 14 to the document you gave me --</p> <p>15 Q. Okay.</p> <p>16 A. -- if this is what you're interested 17 in.</p> <p>18 Q. Let's start there.</p> <p>19 A. Okay. So in this case just on 20 the -- on the front chart, which you're looking 21 at right there, that lists a few different 22 groups: Telemundo, Google, which has the</p>
<p style="text-align: right;">Page 83</p> <p>1 one of our ads through that display. So if 2 they never search, they are never on YouTube, 3 they are still going to get one of our ads 4 because this increases our reach.</p> <p>5 BY MS. MILLIGAN:</p> <p>6 Q. Okay. And is it fair to say that 7 over the course of the campaign CMS will 8 consider shifting allocated dollars between the 9 channels you have described in order to 10 optimize spend?</p> <p>11 MR. SOSNOWSKY: Objection. Form.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MS. MILLIGAN:</p> <p>14 Q. And in addition to Google, is it 15 fair to say that you bought advertising from 16 suppliers other than Google?</p> <p>17 A. Yes.</p> <p>18 Q. Which suppliers?</p> <p>19 A. This invoice might not be exhaustive 20 for the entire campaign, but for the month of 21 November, if you would like me to rely on this 22 invoice, I can do that.</p>	<p style="text-align: right;">Page 85</p> <p>1 highest spend in the month of November, 2 Microsoft, MiQ, Resonate, Univision, and Impre 3 Media.</p> <p>4 Q. Sitting here today and based on your 5 preparation -- preparation for this deposition, 6 can you think of any others?</p> <p>7 MR. SOSNOWSKY: Objection. Form.</p> <p>8 THE WITNESS: Do you want me to just 9 talk about Spanish and Medicare, or do you want 10 me to talk about every single campaign we do?</p> <p>11 BY MS. MILLIGAN:</p> <p>12 Q. I am just asking for the suppliers 13 of advertising that you can name sitting here 14 today based on the preparation you did for this 15 deposition.</p> <p>16 MR. SOSNOWSKY: Objection. Form.</p> <p>17 Foundation.</p> <p>18 THE WITNESS: So "suppliers of 19 advertisement," could you define that for me.</p> <p>20 BY MS. MILLIGAN:</p> <p>21 Q. Do you --</p> <p>22 A. We have people who make ads. We</p>

22 (Pages 82 - 85)

Page 86	Page 88
1 have people who place ads.	1 and people with disabilities who are on
2 Q. Okay. Is that your understanding of	2 Medicare, we think about what they need to do
3 suppliers of advertising?	3 to save money on Medicare to make the most of
4 A. That is a very small list of what	4 the program for themselves and what's a way to
5 people do for advertising.	5 remind them that this is -- that open
6 Q. Okay. What other supply -- supply	6 enrollment is the time to do that.
7 services are you -- are provided --	7
8 A. So we work --	8
9 MR. SOSNOWSKY: Hold on. I'm	9
10 sorry --	10
11 THE WITNESS: Yep. Sorry.	11
12 MR. SOSNOWSKY: -- let her finish	12
13 the question just because --	13
14 THE WITNESS: Yeah. Thank you very	14
15 much. I appreciate that.	15
16 I'm sorry. I interrupted.	16
17 BY MS. MILLIGAN:	17
18 Q. What other suppliers' supplies do --	18
19 sorry. Strike that.	19
20 You mentioned people who make the	20
21 ads. You mentioned people who place the ads.	21
22 Are there other services that you would	22
Page 87	
1 include --	1 for identification.)
2 MR. SOSNOWSKY: Objection.	2 THE WITNESS: Thank you.
3 BY MS. MILLIGAN:	3
4 Q. -- within suppliers of advertising?	4
5 MR. SOSNOWSKY: Object to the form.	5
6 THE WITNESS: There are. There is	6
7 planning services for helping us develop media	7
8 plans. There are vendors which specialize in a	8
9 particular channel, which would be similar to	9
10 what we just discussed. There are directors	10
11 who direct film shoots. There are graphic	11
12 artists who mock up advertisements. It is a	12
13 rather large undertaking.	13
14 BY MS. MILLIGAN:	14
15 Q. All right. And for purposes of	15
16 Exhibit 80, why did -- why did CMS purchase	16
17 from the other vendors here aside from Google?	17
18 MR. SOSNOWSKY: Objection. Form.	18
19 THE WITNESS: People in our	19
20 audience -- and in this case, these are people	20
21 on Medicare who are either over the age of 65,	21
22 and many of them are like 70, 80, 85 years old,	22
Page 89	
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22

<p style="text-align: right;">Page 90</p> <p>1 Q. The last e-mail on the page at the 2 bottom from Aaron Blazer. 3 A. Okay. Thank you. 4 And you wanted the second bullet? 5 Q. Yes. Actually, let me just -- let 6 me just -- so Aaron writes here: "We have 7 captured this in our final report and will have 8 full performance metrics and percentage 9 detailed. Year over year the campaign 10 performed exceptionally well driven by channel 11 optimizations and applied learnings from 12 previous open enrollment periods." 13 Did I read that correctly? 14 A. Yes, you did. 15 Q. Okay. And could you read out loud 16 the shift -- the second bullet. 17 A. So what the second bullet is 18 saying -- 19 Q. Sorry. Could you read it out loud. 20 A. I can read it out loud. 21 "Shifted the display strategy in 22 Open Enrollment 8 more towards our partner MiQ,</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. -- it was not responsive to the 2 question. 3 MR. SOSNOWSKY: Objection. 4 THE WITNESS: It does -- 5 BY MS. MILLIGAN: 6 Q. Sir, there is no question pending. 7 MR. SOSNOWSKY: There is no question 8 pending, Chris. That's okay. 9 THE WITNESS: Okay. 10 BY MS. MILLIGAN: 11 Q. For the time period 2019 to 2023, 12 can CMS quantify its purchases of display 13 advertising from advertising agencies or 14 through advertising agencies? 15 MR. SOSNOWSKY: Objection. Form. 16 THE WITNESS: CMS can quantify that 17 number. 18 BY MS. MILLIGAN: 19 Q. Okay. Sitting here today as CMS's 20 representative, are you able to quantify that? 21 A. I would need to go over lots of 22 records and add them together.</p>
<p style="text-align: right;">Page 91</p> <p>1 who has historically outperformed Google for 2 this campaign." 3 Q. Okay. And is -- is the open 4 enrollment for -- this is for -- this open 5 enrollment is for the marketplace, 6 Healthcare.gov? 7 A. Yes, it is. 8 Q. And is it fair to say that that 9 campaign is CMS's largest campaign in terms of 10 dollars between 2019 and 2023? 11 A. Yes. 12 Q. Okay. Thank you. 13 A. That bullet is taken out of context 14 from Aaron Blazer anyway. She -- there are 15 many factors which go towards the concept of 16 outperforming and many factors that go towards 17 how much we spend on a channel. Anyway this 18 was based on last-click attribution only. 19 Q. I will move to strike that last 20 part -- 21 MR. SOSNOWSKY: Objection. 22 BY MS. MILLIGAN:</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. Okay. And what records? 2 A. They would be final campaign 3 reports, final digital campaign reports. 4 Q. Anything else? 5 A. That would probably do it. 6 Q. Okay. And the same question for 7 price quotes. 8 MR. SOSNOWSKY: Object to the form. 9 THE WITNESS: I'm sorry. Price 10 quotes on -- on what? 11 BY MS. MILLIGAN: 12 Q. The price quotes that you -- that 13 CMS received for -- between the time period of 14 2019 and 2023 for purchases of display 15 advertising. 16 MR. SOSNOWSKY: Object to the form. 17 THE WITNESS: The price planning for 18 what we budget would be in our media plans, and 19 that would include estimates of what we are 20 paying for impressions and/or clicks. 21 BY MS. MILLIGAN: 22 Q. All right. And for actual prices</p>

	Page 94		Page 96
1	paid?	1	Q. -- for the amount listed in this
2	A. Those would be --	2	invoice?
3	MR. SOSNOWSKY: Object to the form.	3	MR. SOSNOWSKY: Objection to form.
4	THE WITNESS: Those would be in the	4	THE WITNESS: CMS paid Google
5	final report.	5	through Brunet-García.
6	BY MS. MILLIGAN:	6	BY MS. MILLIGAN:
7	Q. And for the terms and conditions of	7	Q. Okay. My question was whether
8	those purchases?	8	Brunet-García paid Google.
9	MR. SOSNOWSKY: Object to the form.	9	MR. SOSNOWSKY: Objection to form.
10	THE WITNESS: Those would be in the	10	THE WITNESS: At CMS's direction.
11	planning but also in the invoices depending on	11	BY MS. MILLIGAN:
12	your definition of terms and conditions.	12	Q. Brunet-García paid Google --
13	BY MS. MILLIGAN:	13	MR. SOSNOWSKY: Objection to form.
14	Q. Thank you.	14	BY MS. MILLIGAN:
15	If I could just briefly turn your	15	Q. -- at CMS's direction?
16	attention back to Exhibit 79, and we were	16	A. Yes.
17	looking at --	17	Q. Okay. And CMS paid Brunet-García?
18	A. I don't mean to be rude. This is	18	MR. SOSNOWSKY: Object to the form.
19	what I have marked as 79.	19	THE WITNESS: That is correct.
20	Q. I'm sorry. 80.	20	BY MS. MILLIGAN:
21	A. There we go. Thank you. Trying to	21	Q. Has CMS paid fees for ad tech
22	be helpful.	22	services provided by Google.
	Page 95		Page 97
1	Q. I appreciate that. I appreciate	1	You can set aside -- this is not
2	that.	2	specific to Exhibit 80.
3	Looking at Exhibit 80, we were	3	MR. SOSNOWSKY: Objection to form.
4	looking at the Google invoice in this exhibit	4	THE WITNESS: Yes.
5	that is pages 3901 to 3903. If I could turn	5	BY MS. MILLIGAN:
6	your attention to those pages.	6	Q. Okay. And which ad tech services
7	Who paid this invoice, the amount in	7	has CMS paid those ad tech services for?
8	this invoice, to Google?	8	A. For the use of ad placement --
9	A. CMS paid this invoice through our	9	sorry. The technical term is escaping me but
10	advertising agency.	10	ad-serving fees.
11	Q. Okay. Which advertising agency?	11	Q. Okay. And for the time period 2019
12	A. In this case Brunet-García.	12	to 2023, what was the amount of those fees?
13	Q. Okay. So in this instance,	13	A. Across all the campaigns, they would
14	Brunet-García served as -- as the middleman?	14	have to be summed up across all the final
15	MR. SOSNOWSKY: Objection to form.	15	reports and/or invoices.
16	THE WITNESS: Brunet-García	16	Q. Okay. And to whom does CMS pay
17	purchased this at our direction.	17	those fees?
18	BY MS. MILLIGAN:	18	MR. SOSNOWSKY: Objection to form.
19	Q. Okay. And did Brunet-García pay --	19	THE WITNESS: To Google through our
20	pay Google --	20	ad agencies.
21	MR. SOSNOWSKY: Objection.	21	BY MS. MILLIGAN:
22	BY MS. MILLIGAN:	22	Q. So CMS paid its -- its ad agencies

<p style="text-align: right;">Page 98</p> <p>1 for those fees?</p> <p>2 MR. SOSNOWSKY: Objection to form.</p> <p>3 THE WITNESS: As your first question</p> <p>4 was, you asked did CMS purchase from Google.</p> <p>5 And I answered yes, on the tech services, and</p> <p>6 so that's what I am referring to. So we paid</p> <p>7 those tech services through our ad agencies.</p> <p>8 BY MS. MILLIGAN:</p> <p>9 Q. So would -- in order to calculate</p> <p>10 the amount of fees paid to CMS's advertising --</p> <p>11 advertising agencies for ad tech services</p> <p>12 provided by Google, aside from the final</p> <p>13 reports, are there any other records that one</p> <p>14 would need to make that calculation?</p> <p>15 MR. SOSNOWSKY: Objection to form.</p> <p>16 THE WITNESS: I would double-check</p> <p>17 the math using the invoices.</p> <p>18 BY MS. MILLIGAN:</p> <p>19 Q. Which invoices?</p> <p>20 A. The invoices that CMS receives.</p> <p>21 Q. And who does CMS receive invoices</p> <p>22 from?</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. SOSNOWSKY: Objection to form.</p> <p>2 Foundation.</p> <p>3 THE WITNESS: The invoice was sent</p> <p>4 on our behalf to Brunet-García.</p> <p>5 BY MS. MILLIGAN:</p> <p>6 Q. Okay. And so it was received by</p> <p>7 Brunet-García?</p> <p>8 MR. SOSNOWSKY: Objection to form.</p> <p>9 Foundation.</p> <p>10 THE WITNESS: In order to pay Google</p> <p>11 on our behalf.</p> <p>12 BY MS. MILLIGAN:</p> <p>13 Q. It was received by Brunet-García in</p> <p>14 order to pay Google?</p> <p>15 MR. SOSNOWSKY: Object to form.</p> <p>16 Foundation.</p> <p>17 THE WITNESS: It's on our behalf.</p> <p>18 BY MS. MILLIGAN:</p> <p>19 Q. Is that --</p> <p>20 THE COURT REPORTER: I'm sorry. I</p> <p>21 didn't hear your answer.</p> <p>22 THE WITNESS: It's on our behalf.</p>
<p style="text-align: right;">Page 99</p> <p>1 MR. SOSNOWSKY: Objection to form.</p> <p>2 THE WITNESS: We receive the</p> <p>3 invoices, as we just looked at, from Google</p> <p>4 through our advertising agency.</p> <p>5 BY MS. MILLIGAN:</p> <p>6 Q. Okay. And the invoice that we just</p> <p>7 looked at, who was the recipient of that</p> <p>8 invoice in the first instance?</p> <p>9 MR. SOSNOWSKY: Objection to form.</p> <p>10 Foundation.</p> <p>11 THE WITNESS: I don't think it lists</p> <p>12 the staff member on this particular one --</p> <p>13 BY MS. MILLIGAN:</p> <p>14 Q. So here --</p> <p>15 A. -- yeah. It's -- the document you</p> <p>16 gave me doesn't actually -- it would go through</p> <p>17 our office of financial management. They</p> <p>18 probably see it first.</p> <p>19 Q. Who -- and "who" means people and</p> <p>20 entities -- received that, the invoice -- the</p> <p>21 Google invoice in Exhibit 80 in the first</p> <p>22 instance? Feel free to look at it.</p>	<p style="text-align: right;">Page 101</p> <p>1 Thank you.</p> <p>2 BY MS. MILLIGAN:</p> <p>3 Q. So is that yes?</p> <p>4 MR. SOSNOWSKY: Objection to form.</p> <p>5 Foundation.</p> <p>6 THE WITNESS: Advertising agencies</p> <p>7 act on our behalf to pay our vendors.</p> <p>8 BY MS. MILLIGAN:</p> <p>9 Q. Okay. Did you understand my</p> <p>10 question?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So when the invoice was sent</p> <p>13 on your behalf from Google to Brunet-García, is</p> <p>14 it correct that Brunet-García received that</p> <p>15 invoice?</p> <p>16 MR. SOSNOWSKY: Objection. Asked</p> <p>17 and answered several times now.</p> <p>18 You can tell her again.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MS. MILLIGAN:</p> <p>21 Q. Thank you.</p> <p>22 Does CMS have an amount in mind that</p>

30 (Pages 114 - 117)